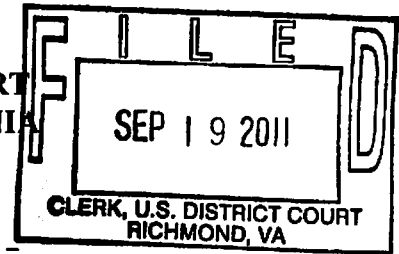


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**



HENRY RAY DUNCAN, II,

Petitioner,

v.

Civil Action No. **3:11CV307**

G.M. HINKLE,

Respondent.

MEMORANDUM OPINION

On August 17, 2011, the Court received from Petitioner a motion to dismiss the present action without prejudice. Because Respondent has filed an answer, Petitioner may not dismiss this action as a matter of right. Fed. R. Civ. P. 41(a)(1). Nevertheless, a petitioner's motion for dismissal without prejudice "should not be denied absent substantial prejudice to the [respondent]." *Andes v. Versant Corp.*, 788 F.2d 1033, 1036 (4th Cir. 1986). The record does not suggest that Respondent will suffer substantial prejudice if the action is dismissed. Accordingly, the Court will grant Petitioner's motion (Docket No. 11) and the action will be **DISMISSED WITHOUT PREJUDICE**.

An appropriate Order shall issue.

Date: 9-19-11
Richmond, Virginia

/s/
James R. Spencer
Chief United States District Judge